Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington. D.C. 20554

In the Matter of	)	
	)	
Implementation of the Local Competition Provisions in the Telecommunications Act of 1996	)	CC Docket No. 96-98
	)	

NYNEX COMMENTS

The NYNEX Telephone Companies

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Dated: May 20, 1996

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SUMMARY

The NYNEX Telephone Companies ("NYNEX") hereby comment on the Commission's Notice of Proposed Rulemaking ("NPRM") in the above-captioned matter with respect to interconnection issues on dialing parity, access to rights-of-way, notice of technical changes and number administration. NYNEX submitted Comments on May 16, 1996, addressing the many other issues raised in the NPRM.

The NPRM seeks comment on proposed rules for implementing the interconnection provisions of the Telecommunications Act of 1996 (the "Act"). The purpose of those rules is to implement Congress' procompetitive, deregulatory national policy framework for opening local telephone markets to competition. With respect to the four subjects raised for comment, NYNEX shows herein that the Commission can largely rely on actions it has already taken, as well as state regulation and established industry processes to achieve its goals. Additional detailed and comprehensive rules are not needed, and should not be adopted by the Commission in this proceeding.

The dialing parity requirements of the Act are satisfied by the North American Numbering Plan ("NANP") standard for local calls, and the Equal Access with presubscription standard for interLATA/international calls, extended to intraLATA toll calls using 2 PIC technology. With respect to what, if any, additional Commission action is necessary or desirable to ensure nondiscriminatory access to telephone numbers consistent with the Act, no actions over and above those already taken by the Commission in the NANP Order are necessary. Also, NYNEX's current offerings of

operator services, directory assistance and directory listings comport with the Act and the Commission does not need to take additional actions in this regard.

Section 251(b)(4) of the Act requires local exchange carriers to "afford access to the poles, ducts, conduits, and rights-of-way of such carrier to competing providers of telecommunications services on rates, terms, and conditions that are consistent with Section 224." Preliminarily, the Commission should recognize that Commission rules will not be controlling if a state regulates access to rights-of-way, and the laws of real property may constrain the ability of LECs to provide access. Consistent with §224(f)(1), rules that are adopted should not forbid discrimination that is reasonable by, among other things, permitting a LEC to deny access where it has no legal authority to grant access, where space limitations preclude access, and for reasons of safety, reliability, and engineering.

NYNEX supports most of the Commission's proposals pertaining to the content of a Public Notice of Technical Changes. However, any regulations adopted for these notices must be applied to all telecommunications carriers in a nondiscriminatory manner. Effective and efficient interconnection of networks can only be achieved when all local exchange carriers, not only the incumbent, are required to disclose fully the technical requirements of their respective networks. The Commission can rely on industry guidelines and procedures to properly address the notification and publication of technical and operational standards.

Further, the Commission's NANP Order already satisfies the Act's requirements on number administration.

Accordingly, to effect the Act's interconnection provisions on dialing parity, access to rights-of-way, notice of technical changes and number administration, the Commission should adopt the minimum rules needed in light of existing industry processes as well as state and federal regulatory actions already taken or underway.

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NYNEX COMMENTS

I. INTRODUCTION

The NYNEX Telephone Companies ("NYNEX")[1] hereby comment on the Commission's Notice of Proposed Rulemaking ("NPRM") in the above-captioned matter with respect to interconnection issues on dialing parity, access to rights-of-way, notice of technical changes and number administration. NYNEX submitted Comments on May 16, 1996, addressing the many other issues raised in the NPRM.

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[1] The NYNEX Telephone Companies are New York Telephone Company and New England Telephone and Telegraph Company

industry processes to achieve its goals. Additional detailed and comprehensive rules are not needed, and should not be adopted by the Commission in this proceeding.

II. THE DIALING PARITY REQUIREMENTS OF THE ACT CAN BE SATISFIED BY THE NANP AND EQUAL ACCESS WITH PRESUBSCRIPTION STANDARDS

Section 251(b)(3) of the Communications Act (added by the Act) requires all LECs "to provide dialing parity to competing providers of telephone exchange service and telephone toll service." The Commission solicits comment on a number of issues in this area, addressed below.

The Commission invites comment on its tentative conclusion that §251(b)(3) creates a duty to provide dialing parity with respect to all telecommunications services that require dialing to route a call, including international as well as interstate and intrastate, local and toll services.[2] The Commission also seeks comment on specific alternative methods for implementing local and toll dialing parity, including various forms of presubscription, in the interstate and intrastate long distance and international markets, that are consistent with the requirements of the Act.[3] The North American Numbering Plan ("NANP") and Equal Access with presubscription are the only standards[4] the Commission needs to insure dialing parity for local and toll calls, respectively. The NANP provides a standard telephone number format. As long as competitive carriers have access to NANP telephone numbers on a nondiscriminatory

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[2] NPRM, ¶ 206.

[3] NPRM, ¶ 209.

[4] This refers to dialing standards, not to technical standards.

basis,[5] and as long as carriers interconnect and activate each others' NXX codes on their networks, calls from one carrier's network to another will be transparent to the subscriber in respect to dialing. Thus. NYNEX believes that. consistent with §251(b)(3), a LEC is required to permit telephone exchange service customers within the same area code to dial the same number of digits without the use of an access code, to make a local or toll telephone call, notwithstanding the identity of a customer's or the called party's local telephone service provider.[6]

Equal Access with presubscription already provides dialing parity for both intrastate and interstate interLATA, and international calls. The dialing format of the interLATA/international call is the same regardless of the identity of the subscriber's presubscribed carrier. Thus, all carriers are on an equal footing in respect to presubscription dialing. This standard can be extended to intraLATA toll calls by using 2 PIC technology.[7] 2 PIC technology allows a subscriber to select a carrier for intraLATA

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5 See, e.g., Industry Numbering Committee ("INC") 95-0407-008 Central Office Code (NXX) Assignment Guidelines. These guidelines, which were developed by telecommunications industry consensus under the aegis of the FCC, provide for fair and nondiscriminatory number assignments.

6 It is important to note that in some situations, all local calls cannot be dialed using the same number of digits. In LATA 132 (New York City Metro LATA), local calls span 3 different NPAs, with 7 digit home NPA dialing and 10 digit inter-NPA dialing. Similarly, where geographic overlays have been implemented, dialing between NPAs will require 10 digits. and dialing within an NPA will be accomplished by 7 digits.

7 When implementing Intra LATA Presubscription ("ILP") in New York State, NYNEX found it necessary to request from the New York State Public Service Commission ("NYPSC") a deferral of its obligation to implement ILP for certain types of calls (specifically 0 minus pass through of intraLATA toll completion requests) for which it was technically infeasible to provide ILP. Following careful consideration the NYPSC granted the request. NYNEX believes that where such deferrals or waivers have been granted by the states, they should be given effect by the Commission as well. Similarly, in order to facilitate interconnection to network

toll calls and a carrier for interLATA/ international calls. The carrier for intraLATA toll calls does not have to be the same as the carrier for interLATA/international calls. Thus, 2 PIC technology helps foster an additional market for carrier competition, and places the intraLATA toll carrier on an equal footing with the incumbent LEC in respect to presubscription dialing of intraLATA toll calls. In respect to consumer education requirements, carriers offering intraLATA toll service should, of course, be responsible for marketing their product and providing related information to consumers. The incumbent LEC should only be responsible for notifying consumers about its intraLATA toll carrier selection procedures.[8]

In sum, NYNEX believes that the NANP standard for local calls and the Equal Access with presubscription standard for interLATA/international calls, extended to intraLATA toll calls using 2 PIC technology, satisfy the dialing parity requirements of the Act.

The Commission further seeks comment on whether any of the presubscription methods adopted by the states could be implemented in national dialing parity standards consistent with the requirements of the Act. In this regard, the Commission inquires as to the categories of long distance traffic (e.g., intrastate, interstate, and international) for which a customer should be entitled to choose presubscribed carriers.[9] 2 PIC technology

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elements or to advance other regulatory objectives such as number portability, certain technological solutions may be required that depart from dialing parity requirements. In such cases waivers should be granted by the Commission, or if granted by a state, given effect by the Commission.

[8] See NPRM, ¶¶ 212-13.

[9] NPRM, ¶ 210.

for presubscription allows the selection of two carriers. One carrier is selected to carry intraLATA toll calls, and a second carrier is selected to carry both interLATA and international calls. This technology is widely available and can be implemented within a reasonable time. Separation of presubscribed international calls from interLATA calls would require the selection of a third carrier which could only be accomplished by using a multi-PIC technology which in most cases is not yet available. Developing and acquiring this new technology will be resource intensive, costly, and time consuming. Given all the other important issues being worked by the telecommunications industry and the Commission at this time, the public interest would not be served by pursuing the possible separation of interLATA and international calls. The Commission has observed that 32 states do not provide and have not ordered intraLATA toll dialing parity.[10] The Commission and the industry should clear this hurdle before considering any additional dialing parity requirements.

In addition to the duty to provide dialing parity, §251(b)(3) imposes the duty on all LECs to provide competing telecommunications services providers with "nondiscriminatory access to telephone numbers, operator services, directory assistance, and directory listing, with no unreasonable dialing delays." The Commission seeks comment as to what, if any, Commission action is necessary to implement these nondiscriminatory access provisions.[11]

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[10] NPRM, ¶ 203.

[11] NPRM, ¶ 214.

With respect to what, if any, additional Commission action is necessary or desirable to ensure nondiscriminatory access to telephone numbers consistent with the requirements of §251(b)(3), as discussed infra, no actions over and above those already taken by the Commission in the NANP Order[12] are necessary. Also, NYNEX's current offerings of operator services, directory assistance and directory listings, as described below, comport with the Act and the Commission does not need to take additional actions in this regard.

Concerning the nondiscriminatory access requirements for operator services under §251(b)(3),[13] it should be noted that access to NYNEX's operator services is currently available to facilities-based telecommunications carriers under interconnection agreements. Under such agreements NYNEX provides access to its own operator services over NYNEX's common network facilities to interconnectors when they purchase NYNEX's port/switch unbundled network element, or when they interconnect to NYNEX's operator tandem from their own end office on a separate trunk group. Access to NYNEX's operator services is also available to non-facilities-based providers as part of the service they purchase from NYNEX for resale to their end users. These arrangements impose no additional dialing delays nor the need for dialing additional digits.

The Commission also requests commenters to address whether the duty imposed on LECs to provide nondiscriminatory access to operator services includes the duty to

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[12] Administration Of The North American Numbering Plan, CC Docket No. 92-237, FCC 95-283, Report and Order released July 13, 1995.

[13] See NPRM, ¶ 216.

resell operator services to non-facilities-based competing providers or facilities-based competing providers.[14] The intent of the Act is that all subscribers should have access to an operator on the same basis (e.g., by dialing 0, etc.) regardless of the identity of their service provider. NYNEX provides access to its operator services on a nondiscriminatory basis to both facilities-based and non-facilities-based competing providers so that they may fulfill the requirements of the Act. The Act does not require NYNEX to provide its operator services in a form which will allow providers to "resell" NYNEX's operator services to their end users as if they were their own services. Further, nothing in the Act requires NYNEX to provide access to an alternate operator services provider on behalf of a reseller of NYNEX's exchange service or a purchaser of NYNEX's port/switch unbundled network element.[15]

With respect to nondiscriminatory access to directory assistance and directory listing as required by §251(b)(3),[16] NYNEX's directory assistance service is also currently available to facilities-based telecommunications carriers under interconnection

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[14] NPRM, ¶ 216.

[15] NYNEX may choose to offer its operator services to competing facilities-based providers in a form that permits them to "resell" such services to their end users. Similarly, NYNEX may provide access to alternate operator services providers on behalf of a reseller of NYNEX's exchange service or a purchaser of NYNEX's port/switch unbundled network element. Alternatives may be technically feasible if the competing provider uses its own end office switch but, depending on demand and switch capacity, may not be technically feasible if NYNEX provides unbundled switching to the facilities-based provider. These choices should be the subject of negotiations between NYNEX and competing providers as envisioned by the Act and not regulatory requirements.

[16] See NPRM, ¶ 217.

agreements, and/or under tariff,[17] and to non-facilities-based providers as part of the service they purchase from NYNEX for resale to their end users. In addition, NYNEX will include such a provider's subscriber listings in NYNEX's directory listings and directory database. Finally, NYNEX's directory listings are available for purchase by third parties who publish their own directories.

The Commission also seeks comment on whether customers of competing telecommunications providers can access directory assistance by dialing 411 or 555-1212.[18] Nothing we can conceive of should prevent a facilities-based competing telecommunications provider from making its directory assistance service available to its subscribers by dialing 411 and 555-1212[19] when the facilities-based provider uses its own switch. This holds true even if the provider purchases directory assistance from an incumbent LEC such as NYNEX, or a third party. Accordingly, an alternative dialing arrangement is not needed in order to make directory assistance services accessible to all providers.

Furthermore, the Commission asks commenters to address whether the duty imposed on LECs to provide nondiscriminatory access to directory assistance includes the duty to resell 411 or local 555-1212 directory assistance services to non-facilities-based or facilities-based competing providers.[20] As noted above in respect to operator

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17 NYNEX's FCC No. 1 and NYPSC No. 914 are examples of tariffs that provide for directory assistance services to facilities-based carriers.

18 NPRM, ¶ 217.

19 Resellers of NYNEX's local exchange services or purchasers of NYNEX's port/switch unbundled network element will reach NYNEX's directory assistance.

20 NPRM, ¶ 217.

services, NYNEX's directory assistance services are available to facilities-based and non-facilities-based providers alike. Also, as noted in respect to operator services, any additional capabilities requested by competing providers should be the subject of negotiations with NYNEX. Finally, availability to third parties for resale to telecommunications service providers is similarly not required.

The Commission invites comment on defining "dialing delay" and on appropriate methods for measuring and recording that delay. The Commission asks commenters to identify a specific period that would constitute an "unreasonable" dialing delay. As noted earlier, the NANP standard for local calls and the Equal Access with presubscription standard for interLATA/international calls and intraLATA toll calls, should be adhered to by LECs in providing service to interconnecting carriers. Under this approach, it is unlikely there will be any opportunity to introduce unreasonable dialing delays. If, for some reason, additional technologies are employed to provide such service, such as Advanced Intelligent Network ("AIN"), then it may be necessary to measure the access time period. As defined by the Commission in its proceeding on provision of access for 800 service,[21] this time period would be defined as beginning when the subscriber completes dialing and ending when the LEC delivers the call to the carrier. In determining what would constitute an unreasonable delay, NYNEX cautions the Commission not to impose a rigid standard, but rather to make a useful recommendation. An appropriate recommendation for this time period is that it should not exceed

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[21] MM Docket No. 86-10, 6 FCC Rcd 5421, ¶ 3 & n.4 (1991).

5 seconds, the standard the Commission adopted in its 800 proceeding.[22] In that proceeding the Commission had the benefit of extensive industry testing to determine the current extent of access time, and the access time achievable in an SS7/IN environment. No such opportunity presents itself here. The Commission cannot forecast every possible service and technology that may impact the access time period, and therefore should not impose a rigid standard. For example, in a database driven number portability environment, the effect that the database queries performed will have on access time is unknown. Imposing a rigid standard for this time period could have the unforeseen effect of delaying the introduction of number portability. By making a recommendation, the Commission can provide the industry with a useful metric against which new services and technologies can be measured without impeding the introduction of services and technologies that may serve a vital public interest.

Finally, the Commission seeks comment on what, if any, standard should be used for arbitration to determine the dialing parity implementation costs that LECs should be permitted to recover, and how those costs should be recovered.[23] To the extent that there are costs associated with providing dialing parity on local calls, those costs should be recovered under interconnection agreements. The costs associated with implementation of intraLATA toll dialing parity should be recovered from carriers providing intraLATA toll service who benefit from the availability of intraLATA toll dialing parity. However,

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[22] Id., ¶ 21 & n. 32.

[23] NPRM, ¶ 219.

these issues will properly be the subject of state regulatory proceedings, and the Commission should not take further action here

III. THE COMMISSION SHOULD ADOPT RULES REGARDING ACCESS TO RIGHTS-OF-WAY THAT RECOGNIZE PRINCIPLES OF REAL PROPERTY LAW, AND FORBID DISCRIMINATION THAT IS UNREASONABLE

Section 251(b)(4) of the Telecommunications Act of 1996 (the "Act") imposes on each local exchange carrier ("LEC") the duty to "afford access to the poles, ducts, conduits, and rights-of-way of such carrier to competing providers of telecommunications services on rates, terms, and conditions that are consistent with section 224." In its NPRM, the Commission states that it will adopt rules implementing certain sections of §224, as amended by the Act, in one or more separate proceedings. The Commission seeks comments on §224(f) and (h) in this proceeding, however, in order to establish "any rules necessary to implement section 251(b)(4)."[24] NYNEX accordingly provides the following comments.

As a preliminary matter, the Commission should recognize that Commission rules will not be controlling if a State regulates access to poles, ducts, conduits and rights-of-way pursuant to §224(c). Section 251(b)(4) imposes upon a LEC the duty to afford access to its poles, ducts, conduits and rights-of-way on rates, terms and conditions that are consistent with §224.[25] Subsection (c) of §224 provides that the Commission has no

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[24] NPRM, ¶ 221.

[25] Similarly, the "competitive checklist" -- which must be met by a Bell Operating Company ("BOC") to obtain authorization to provide in-region interLATA relief -- requires "[n]nondiscriminatory access to the poles, ducts, conduits, and rights-of-way owned or controlled by the Bell operating company at just and reasonable rates

jurisdiction over rates, terms, conditions or access if a State has taken the action prescribed in §224(c) regarding such matters. Section 224(c)(i) provides:

> Nothing in this section shall be construed to apply to, or to give the Commission jurisdiction with respect to rates, terms, and conditions, or access to poles, ducts, conduits, and rights-of-way as provided in subsection (f), for pole attachments in any case where such matters are regulated by a State

In addition, the Commission should recognize that the laws of real property may constrain the ability of LECs to provide access to poles, ducts, conduits and rights-of-way. If, for example, a LEC has been granted an easement by a property owner that does not permit others to use it, the LEC does not have the legal right to provide access to that right-of-way. Commission rules implementing §251(b)(4) -- as well as §224(f) and (h) -- should specifically provide that a LEC is required to provide access only where it has the legal right to do so.[26] On a prospective basis, the Commission could address this area by preventing local exchange companies from executing contracts containing exclusive access to rights-of-way.

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in accordance with the requirements of section 224." (Act §271(c)(2)(B)(iii) (emphasis added))

[26] Real property law may also constrain the Commission's authority regarding access to private property. In light of the rights of property owners concerning access to their property, Commission rules encouraging open access to rights-of-way on a going forward basis may be most effective if adopted in the context of demarcation for telephone inside wiring and cable home wiring. In the case of government-owned property, government grants of exclusive rights may be addressed most effectively by the Commission using its preemption powers under §253(d) of the Act, which would apply if a State or local government violated the §253(c) requirement to manage the use of public rights-of-way on a nondiscriminatory basis.

NYNEX has the following additional comments in response to the specific requests of the Commission regarding rules to implement §224(f) and (h).[27] Commission rules concerning the meaning of "nondiscriminatory access" in §224(f)(1) should state that §224(f)(1) forbids unreasonable discrimination. Commission rules should expressly provide that a LEC may deny access (i) where the LEC does not have the legal authority to grant access; (ii) where space limitations preclude access; or (iii) for specifically identified reasons of safety, reliability, and engineering.

Such rules would be consistent with §224(f)(2) which gives utilities providing electric service the ability to deny access to poles, ducts, conduits and rights-of way because of insufficient capacity and for specific reasons of safety, reliability, and generally applicable engineering standards. They would also be consistent with provisions of the Act regarding the analogous circumstance of physical collocation. Under §251(c)(6) of the Act, an incumbent LEC is not required to provide physical collocation if it is not practical because of space limitation or for technical reasons.

Regarding the denial of access because of space limitations, Commission rules should provide that insufficient capacity may legitimately occur because a utility has reserved space for its own or for interconnector customers' future use, provided there is a business reason for such reservation of capacity. Commission rules should further provide that allocation of space on first-come-first-served basis is fair, reasonable, and nondiscriminatory within the meaning of §224(f)(1)

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[27] NPRM, ¶¶ 222, 223, and 225.

With regard to safety, reliability and engineering concerns, Commission rules should provide that access may be denied for the following reasons, at a minimum: Access could not be achieved and maintained while protecting the safety of personnel of the utility and the attachee. There is no operationally practical way to prevent existing equipment from damage or to prevent the possibility of miswiring if access is granted. Access will jeopardize the quality of service provided to end users of any service provider using the pole, duct, conduit or right-of-way There is no operationally practical way to preserve the confidentiality of communications and proprietary information of all service providers and their end users. In short, rules regarding limitations on access developed under §224(f)(2) for electric utilities should be applied to non-electrics as part of the "nondiscriminatory access" standard of §224(f)(1). In addition, obviously, Commission rules should provide that the limitations on access contained in §224(f)(2) apply even if an electric utility is only a joint owner of the pole, duct, conduit or right-of-way.

NYNEX supports rules requiring that the same terms for access must be applied to similarly-situated parties requesting access (e.g., providers of telecommunications services, providers of cable services, etc.). As a further safeguard, pole attachment rates must be imputed to costs and charged to an affiliate under §224(g).

Further, no rules are required regarding the §224(h) requirement of notice by an owner of modifications and alterations of poles, ducts, conduits or rights-of-way. Section 224(h) expressly requires written notice that provides a reasonable opportunity to the recipient to add or modify its attachment. This standard is a sufficient safeguard, providing necessary flexibility.

IV. WITH RESPECT TO PUBLIC NOTICE OF TECHNICAL CHANGES, THE COMMISSION SHOULD DEFER TO ESTABLISHED INDUSTRY GUIDELINES AND PROCEDURES, AND APPLY ANY REGULATIONS TO ALL TELECOMMUNICATIONS CARRIERS

Section 251(c)(5) of the Act requires incumbent LECs to "provide reasonable public notice of changes in the information necessary for the transmission and routing of services using that local exchange carrier's facilities or networks, as well as of any other changes that would affect the interoperability of those facilities and networks." The Commission seeks comment relative to the timing, publication, format and content of the required information.[28]

NYNEX supports the Commission's tentative conclusion (NPRM, ¶ 191) that Public Notices of Technical Changes should be provided through industry forums.[29] In addition, any regulations adopted for these notices must be applied to all telecommunications carriers in a nondiscriminatory manner. Effective and efficient interconnection of networks can only be achieved when all local exchange carriers, not only the incumbent, are required to disclose fully the technical interconnection requirements of their respective networks.

The Commission has the authority to require these notices from each telecommunications carrier pursuant to §251(a) of the Act. Further, the Commission has long had in effect its "All Carrier Rule" which "requires all carriers to disclose,

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[28] NPRM, ¶¶ 189-92.

[29] The Commission should codify that all LECs are required to disclose "all changes in information necessary for the transmission and routing of services using the local exchange carrier's facilities that affects interoperability." The Commission should also leave to industry bodies the responsibility to identify the specific information to be disclosed in specific cases.

reasonably in advance of implementation information regarding any new service or change in the network."[30] These network disclosure requirements have applied to all telecommunications carriers, not just to the BOCs and AT&T. Likewise, the Act's requirements for a Public Notice of Technical Changes should be applied in a consistent manner to all telecommunications carriers. In this regard, the disclosure timetable adopted in the Computer Inquiry III proceeding for BOCs[31] should continue to apply for the specific purpose for which they were intended (i.e., CPE or enhanced service provider interconnection).[32] CI-III timeframes may be appropriate for specific items to be addressed in a Public Notice of Technical Changes. However, on a going forward basis, CI-III timeframes should not be adopted absent industry review and support. Instead, the time frames for network disclosure should be determined by industry standards groups.

Industry guidelines and procedures exist to properly address the notification and publication of technical and operational standards. Accordingly, NYNEX supports the Commission's tentative conclusion that:

> full disclosure of the required technical information should be provided through industry forums (e.g., the Network Operations Forum (NOF) or Interconnection Carrier Compatibility Forum (ICCF)) or in industry publications. This approach would build on

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30 Competition In The Interstate Interexchange Marketplace, CC Docket No. 90-132, 6 FCC Rcd 5880, n.270 (1991). See also 47 C.F.R. Section 68.110(b); Second Computer Inquiry, 84 FCC 2d 50, 82-83 (1980)

31 See NPRM, ¶ 192 & n. 256.

32 The Commission should, however, revisit the CI-III disclosure rules since the timetables, under which a carrier must wait at least six months after network disclosure to implement a network change (among other requirements), are too long in light of the rapid pace of technological change and the demands of the competitive marketplace.

> a voluntary practice that now exists in the industry and would result in broad availability of the information.[33]

Indeed, the ICCF has published a paper entitled "Recommended Notification Procedures to Industry for Changes in Access Network Architecture" (ICCF 92-0726-004), which sets forth appropriate principles and minimum requirements for the content and process of notice.[34] The Commission should apply this established industry approach to all carriers. In addition, the Commission should identify any additional guidelines or processes which may be deemed necessary and refer these to the appropriate industry standard bodies for recommendations and implementation.[35] Finally, the Commission should ensure that the process for timely Public Notice of Technical Changes does not impede the implementation by LECs of technical changes to the network needed to provide efficient, advanced services to the public. Technological evolution requires network changes, such as switch replacements and transport upgrades. The FCC should recognize a carrier's right to perform these network changes in order to utilize the most efficient available technology.

V. THE ACT'S REQUIREMENTS ON NUMBER ADMINISTRATION ARE ALREADY SATISFIED BY THE COMMISSION'S NANP ORDER

Section 251(e)(1) requires the Commission to "create or designate one or more impartial entities to administer telecommunications numbering and to make such

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[33] NPRM, ¶ 191.

[34] USTA is filing a copy of that paper with its Comments in this matter.

[35] Likewise, these industry bodies are the best forum to address reconciling §273(c)(1) and §251(c)(5) since there is no basis to adopt different recommendations between these sections.

numbers available on an equitable basis." In the NANP Order, the Commission has already required that the North American Numbering Plan Administrator ("NANPA"), which is to process number assignment applications and maintain administrative number databases, must not be aligned with any particular telecommunications industry segment.[36] Industry measures are already in place for nondiscriminatory central office code assignments. Accordingly, NYNEX agrees with the Commission's tentative conclusion[37] that the NANP Order satisfies the requirements of §251(e)(1) that the Commission designate an impartial number administrator. The NANP Order also satisfies the Act's requirements with respect to ensuring nondiscriminatory access to telephone numbers.[38]

In the NANP Order the Commission also decided to create a North American Numbering Council ("NANC") to make recommendations to the Commission, develop policy, initially resolve disputes and guide the NANPA.[39] NYNEX urges the Commission to expeditiously establish the NANC so that this numbering administration transfer process can move forward without further delay.

Finally, NYNEX agrees with the Commission's tentative conclusion that, while the Commission retains authority to set numbering administration policy, it should delegate to Bellcore, the LECs and the states the authority to continue performing functions related to numbering administration as they existed before enactment of the

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[36] NANP Order, ¶¶ 1-2.

[37] NPRM, ¶ 252.

[38] See Sections 251(b)(3), 271(c)(2)(b).

[39] NANP Order, ¶¶ 1-2, 42.

Act, until such functions are transferred to the new NANPA pursuant to the NANP Order. Under this approach, the Commission can intervene and apply its authority as specific future matters (e.g., area code relief) may warrant, and need not take any additional action at this time.

IV. CONCLUSION

To effect the Act's interconnection provisions on dialing parity, access to rights-of-way, notice of technical changes and number administration, the Commission should adopt the minimum rules needed in light of existing industry processes as well as state and federal regulatory actions already taken or underway.

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